FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

APPEAL FROM ORDER NO. 22 OF 2007

Office Notes, Office Memoranda of Coram, appearances,Court's Orders or directions and Registry's orders.	Court's or Judges Orders.

Mr. S. Patil with Prashant P.Jadhav for the appellant.

Mr. Anilkumar K. Patil for Respondents 1, 2 & 4.

CORAM : A.M.KHANWILKAR, J.
DATE : 22nd February 2007.

P.C. :

1. Heard Counsel for the parties.

2. As the appellate Court has admitted the Appeal, no fault can be found with the appelate Court for granting interim relief in favour of the respondent-appellant, which will operate during the pendency of the Appeal. Besides, the appellate Court has recorded reasons, which is a possible view. Even for that reason, no interference is warranted in this Appeal from

Order.

3. Counsel for the appellant contends that the finding recorded by the appellate Court that there was evidence to prove the tenancy rights of the respondents is contrary to record. He submits that the Tenancy Authority has already answered the issue against the respondents. This submission however overlooks the fact that the decision of the First Tenancy authority is pending in appeal before the appellate authority. The fact remains that from the record it is certain that the respondent is in possession of the property claimed by the plaintiff in half share in Survey No.631/2/1 and Surveyu No.655/2/1. Thus understood, no fault can be found with the conclusion reached by the appellate court in granting interim relief in favour of the respondent.

3. Counsel for the appellant then contends that the said order

passed by the appellate Court is such that the respondents would assert right even in respect of property which is not in his possession, on the basis of the observation in the order that the appellant shall not disturb possession of the respondents-plaintiffs who are in suit properties. This submission is misconceived. The expression "suit properties" occurring in the operative part of the order is obviously referable to the properties in respect of which the plaintiffs have asserted right being half share in the suit lands.

4. Accordingly, there is no merit in this Appeal. The same is dismissed.

5. At this stage, Counsel for the appellant submits that the appellant may like to take up the matter in appeal before the Supreme Court. For this reason, the order of status quo granted

earlier be continued. Obviously, the status quo cannot permit the appellant to dispossess the respondent who is already in possession of the half portion of the suit lands referred to in the plaint.

6. Parties shall maintain the same position with regard to the suit properties which obtained during the pendency of the suit. --

[A.M.KHANWILKAR, J.]